

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA and the)	
STATE OF ILLINOIS <i>ex rel.</i> TEENA)	
PUROHIT,)	
)	
Plaintiffs,)	
)	
v.)	
)	
LAYNIE FOUNDATION, INC. and)	
SUMMER MATHESON,)	
)	No. 14 C 8511
Defendants.)	
<hr/>		Judge Bucklo
UNITED STATES OF AMERICA and the)	
STATE OF ILLINOIS,)	JURY TRIAL DEMANDED
)	
Plaintiffs-Intervenors,)	
)	
v.)	
)	
LAYNIE FOUNDATION, INC., SUMMER)	
MATHESON, and TERRENCE EWING,)	
)	
Defendants.)	

**JOINT COMPLAINT IN INTERVENTION OF
THE UNITED STATES OF AMERICA AND THE STATE OF ILLINOIS**

The United States of America, by Joel R. Levin, Acting United States Attorney for the Northern District of Illinois, and the State of Illinois, by Lisa Madigan, Illinois Attorney General, having filed a notice of intervention against Laynie Foundation, Inc., Summer Matheson, and Terrence Ewing, pursuant to 31 U.S.C. § 3730(b)(4)(A) and 740 ILCS 175/4(b)(4)(A), allege as follows:

Introduction

1. This is a civil fraud action by the United States and the State of Illinois against Laynie Foundation, Inc. (a community mental health provider), Summer Matheson (co-owner and chief operating officer of Laynie Foundation), and Terrence Ewing (co-owner and chief executive officer of Laynie Foundation), seeking treble damages and civil penalties under the False Claims Act (“FCA”), 31 U.S.C. §§ 3729-3733, and the Illinois False Claims Act (“Illinois FCA”), 740 ILCS 175/1-8, and seeking damages under the common law for fraud, unjust enrichment, and payment by mistake.

2. Since 2011, Laynie Foundation has provided mental health services to eligible children in Illinois who have been approved for treatment through an Illinois Medical Assistance program administered by the Illinois Department of Healthcare and Family Services (“HFS”) called Screening, Assessment, and Support Services (“SASS”). Mental health services provided through the SASS program are often delivered and funded as part of Illinois’s Medicaid program.

3. As set forth more fully below, defendants have defrauded the United States and the State of Illinois by engaging in illegal billing practices for these mental health services. Specifically, Laynie Foundation, at the direction of Matheson and Ewing, knowingly submitted false and/or fraudulent claims to HFS in order to increase its payments for mental health services by: (a) regularly billing for more mental health services than were actually provided; (b) improperly including charges for non-reimbursable activities such as internal case reviews and audits, staff training, clinical supervision, and recordkeeping; and (c) violating the state clinical supervision requirements by failing to have a licensed mental health professional certify that the mental health services Laynie Foundation provided were medically necessary and met professional care standards.

4. Defendants' false and/or fraudulent claims garnered them millions of dollars in federal and state health care funds to which they were not entitled.

Jurisdiction and Venue

5. This court has jurisdiction over the FCA claims asserted in this joint complaint pursuant to 31 U.S.C. § 3730(a) and 28 U.S.C. §§ 1331 and 1345. This court has supplemental jurisdiction over the state law claims asserted in this joint complaint pursuant to 28 U.S.C. § 1367 and 31 U.S.C. § 3732(b), because the state law claims arise from the same transaction or occurrence upon which the United States has filed suit under the FCA.

6. Venue is proper in this district pursuant to 31 U.S.C. § 3732(a) and 28 U.S.C. § 1391(b), because defendants transact business in this district and a substantial part of the events giving rise to this action occurred in this district.

The Parties

7. The United States brings this action on behalf of itself and the United States Department of Health and Human Services, the federal agency that administers and has oversight authority over the Medicaid program.

8. The State of Illinois brings this action on behalf of itself and HFS, the state agency that administers and has oversight authority over the Illinois Medical Assistance program, which includes the Illinois Medicaid program and the SASS program.

9. Relator Teena Purohit is a mental health professional who provided mental health services to children while working at the Laynie Foundation from October 2013 to April 2014. Purohit filed this action under the *qui tam* provisions of the FCA, 31 U.S.C. § 3730(b)(1), and the Illinois FCA, 740 ILCS 175/4(b)(1).

10. Defendant Laynie Foundation is a non-profit corporation organized under the laws of Indiana, with its principal place of business at 4747 Lincoln Mall Drive, Suite 604, Matteson, Illinois 60443.

11. Defendant Summer Matheson is the chief operating officer, secretary, and co-owner of Laynie Foundation. Matheson manages the day-to-day operations of Laynie Foundation. She is also the wife of defendant Terrence Ewing.

12. Defendant Terrence Ewing is the president, chief executive officer, and co-owner of Laynie Foundation. He is also the husband of defendant Summer Matheson.

The FCA and Illinois FCA

13. The FCA holds liable any person who (a) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval; or (b) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim. 31 U.S.C. § 3729(a)(1)(A)-(B).

14. The FCA defines “knowingly” to mean that a person, with respect to information, “has actual knowledge of the information,” “acts in deliberate ignorance of the truth or falsity of the information,” or “acts in reckless disregard of the truth or falsity of the information.” 31 U.S.C. § 3729(b)(1)(A). The term “knowingly” does not require proof of specific intent to defraud. 31 U.S.C. § 3729(b)(1)(B).

15. The FCA defines “material” to mean “having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.” 31 U.S.C. § 3729(b)(4).

16. The FCA defines “claim” to include any request or demand for money that is presented to an officer, employee, or agent of the United States or that is made to a contractor, grantee, or other recipient, if the money is to be spent or used to advance a government program

and if the United States provides or will reimburse any portion of the money that is requested or demanded. 31 U.S.C. § 3729(b)(2)(A).

17. Any person who violates the FCA is liable to the United States for three times the amount of damages the United States sustains, plus a civil penalty of up to \$11,000 for each violation. 31 U.S.C. § 3729(a); 28 C.F.R. § 85.3(a)(9).

18. The Illinois FCA includes provisions similar to the FCA. 740 ILCS 175/1-8.

Facts

A. The Medicaid Program

19. Medicaid was created in 1965 under Title XIX of the Social Security Act, 42 U.S.C. § 1396, *et seq.* The Medicaid program provides medical and health-related assistance for society's poorest and most vulnerable adults and children.

20. Medicaid is a state-administered program, and each state sets its own guidelines regarding eligibility and services. Funding for Medicaid is shared between the federal government and the State of Illinois for Illinois Medicaid recipients. 42 U.S.C. § 1396b. The Medicaid program in Illinois operates under the Illinois Medical Assistance program. 305 ILCS 5/5.

21. The State of Illinois directly pays providers under the Medicaid program and obtains the federal share of the payment from the United States Department of Health and Human Services.

22. The federal portion of a state's Medicaid payments, known as the federal Medical Assistance percentage, is based on the state's per capita income compared to the national average. 42 U.S.C. § 1396d. In Illinois, that percentage was 50% of Medicaid expenditures for fiscal years 2012-2014, 50.76% for fiscal year 2015, and 50.89% for fiscal year 2016.

B. The SASS Program

23. Consistent with its obligations as a Medicaid administrator, the State of Illinois has adopted statutes, rules and regulations, and guidance governing the provision of mental health services to children in Illinois that are reimbursed by federal and state Medicaid funds.

24. In an effort to provide improved coordination in the delivery of mental health services to children, the State of Illinois developed the SASS program for children experiencing a mental health crisis who are at risk for psychiatric hospitalization. The program began in July 2004 as part of the implementation of the Children's Mental Health Act of 2003, 405 ILCS 49/1, *et seq.*

25. The SASS program is a cooperative partnership between HFS, the Illinois Department of Children and Family Services, and the Illinois Department of Human Services.

26. The development of the tri-department SASS program created a single, statewide system to: (a) provide screening, assessment, and treatment for a child experiencing a mental health crisis who is at risk for psychiatric hospitalization and whose care will require public funding; (b) enhance access for the child to coordinated community-based mental health services either in lieu of or following inpatient care; and (c) effectively link families and guardians to the appropriate level of care to meet the mental health treatment needs of the child. Thus, one of the program's goals, if possible, is to provide intensive outpatient mental health services to help stabilize a child in crisis while allowing the child to remain at home and in the community.

27. A child must be enrolled in the SASS program in order to receive SASS services.

28. The entity that qualifies and approves children for SASS services in Illinois is the Crisis and Referral Entry Service ("CARES"), a centralized intake crisis line.

29. CARES performs a telephonic acuity assessment of any child referred for crisis services. If CARES determines during the acuity assessment that a child is experiencing (or has recently experienced) a mental health crisis and that the child meets certain age and financial eligibility requirements, CARES will approve a child at risk for psychiatric hospitalization for enrollment in the SASS program. Upon enrollment, CARES also will dispatch a SASS worker to the location of the child in crisis to perform a face-to-face screening to determine if community services can stabilize the child. Ill. Handbook for Providers of Screening, Assessment and Support Services § CMH-200.

30. A child that CARES has approved for inclusion in the SASS program is authorized to receive mental health services for a period of 90 days from a qualified mental health provider. *Id.* § CMH-201. The 90-day period begins on the date CARES enrolls the child in the SASS program. *Id.*

31. Following a child's enrollment in the SASS program, a qualified mental health provider should provide outpatient mental health services to the child in order to prevent a reoccurrence of the crisis as well as to establish a plan for ongoing community-based services for the child. *Id.* § CMH 202.4.

32. As the agency responsible for paying claims submitted by providers for services provided under the SASS program, HFS has promulgated administrative rules detailing the specific provider services that are reimbursable under the SASS program and payment for those services. 89 Ill. Adm. Code 140.452-140.456.

33. One of the provider services reimbursable under the SASS program are "[m]ental health services meeting the standards in 59 Ill. Adm. Code 132." 89 Ill. Adm. Code 140.454 (2009). Part 132 provides information about the mental health services that are appropriate under

the SASS program, including what each service entails and who is qualified to perform each service. 59 Ill. Adm. Code 132.

34. A provider must be enrolled for participation in the Illinois Medical Assistance program in order to receive payment from HFS for mental health services provided to a child enrolled in the SASS program, since HFS reimburses providers of SASS services using: (a) federal and state Medicaid funds when the child is Medicaid eligible; or (b) state general revenue funds when the child is not Medicaid eligible. 89 Ill. Adm. Code 140.452 (2004); 59 Ill. Adm. Code 131.30 (2007).

C. Laynie Foundation

35. Summer Matheson and Terrence Ewing created Laynie Foundation in February 2010.

36. The Illinois Department of Children and Family Services thereafter certified Laynie Foundation as a Medicaid community mental health services provider in July 2011. The certification allowed Laynie Foundation to provide the following mental health services under 59 Ill. Adm. Code 132 (“Part 132”): crisis intervention, therapy/counseling, mental health assessment, treatment plan development, mental health case management, and client-centered consultation.

37. Laynie Foundation also entered into an agreement with HFS in August 2011 to become an eligible provider under the Illinois Medical Assistance program that was authorized to submit claims for services rendered to HFS clients, such as children enrolled in the SASS program. Under this provider agreement, Laynie Foundation certified in part that it would: (a) comply with all current and future program policy and billing provisions set forth in HFS rules and handbooks; (b) comply with federal and state laws and regulations; (c) be fully liable for the truth, accuracy, and completeness of all claims submitted to HFS for payment and may be prosecuted under federal

and state laws for the submission of false or fraudulent claims; and (d) ensure that the services it provided were in compliance with the applicable laws and HFS handbook provisions since compliance was a condition of payment for all claims that it submitted to HFS.

38. Ewing signed the Illinois Medical Assistance provider agreement with HFS on behalf of Laynie Foundation, and HFS assigned Laynie Foundation a provider identification number.

39. Laynie Foundation began submitting claims for payment to HFS in 2011 for mental health services it provided to children enrolled in the SASS program.

40. The majority of the children Laynie Foundation treated were eligible for services under the SASS program. Most of these children resided in this district, and many of them were under the legal responsibility of the Illinois Department of Children and Family Services.

41. The entirety of Laynie Foundation's claims for payment to HFS from 2011 to the present were for mental health services provided to children enrolled in the SASS program.

42. Laynie Foundation electronically submitted its claims for payment to HFS during this time. Each claim Laynie Foundation submitted to HFS included, among other things, one or more billing codes representing each type of mental health service Laynie Foundation provided to a patient as well as the time Laynie Foundation spent providing each service.

43. HFS in turn has paid Laynie Foundation over \$6 million in federal and state Medicaid funds based on claims it received from Laynie Foundation from 2011 to the present.

1. Laynie Foundation's Mental Health Professionals

44. To provide mental health services under the SASS program that comply with Part 132, a provider's staff needs to meet certain qualifications. Among others, two types of qualified

provider staff are “qualified mental health professionals” (QMHPs) and “licensed practitioners of the healing arts” (LPHAs). 59 Ill. Adm. Code 132.25 (2008).

45. A QMHP can be: (a) a licensed social worker possessing at least a master’s degree in social work and licensed under the Clinical Social Work and Social Practice Act, 225 ILCS 20, with specialized training in mental health services or with at least two years of experience in mental health services; (b) a licensed professional counselor possessing at least a master’s degree and licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act, 225 ILCS 107, with specialized training in mental health services or with at least two years of experience in mental health services; (c) a registered nurse licensed under the Nurse Practice Act, 225 ILCS 65, with at least one year of clinical experience in a mental health setting or who possesses a master’s degree in psychiatric nursing; (d) an occupational therapist licensed under the Occupational Therapy Practice Act, 225 ILCS 75, with at least one year of clinical experience in a mental health setting; or (e) an individual possessing at least a master’s degree in counseling and guidance, rehabilitation counseling, social work, vocational counseling, psychology, or family therapy or related field, who has successfully completed a practicum or internship that included a minimum of 1,000 hours of supervised direct service in a mental health setting, or who has one year of clinical experience under the supervision of a QMHP. *Id.*

46. An LPHA is an Illinois licensed health care practitioner who, within the scope of state law, has the ability to independently make a clinical assessment, certify a diagnosis, and recommend treatment for persons with a mental illness and who is one of the following: a physician; an advanced practice nurse with psychiatric specialty licensed under the Nurse Practice Act, 225 ILCS 65; a clinical psychologist licensed under the Clinical Psychologist Licensing Act, 225 ILCS 15; a licensed clinical social worker licensed under the Clinical Social Work and Social

Work Practice Act, 225 ILCS 20; a licensed clinical professional counselor licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act, 225 ILCS 107; or a licensed marriage and family therapist licensed under the Marriage and Family Therapist Licensing Act, 225 ILCS 55, and 60 Ill. Adm. Code 1283. *Id.*

47. Laynie Foundation employed a number of QMHPs from 2011 to 2016 to provide mental health services to children enrolled in the SASS program. Matheson was also a QMHP, and she on occasion would provide mental health services on behalf of Laynie Foundation to children enrolled in the SASS program.

48. Laynie Foundation did not employ an LPHA on a full-time basis from 2011 to 2016, opting instead to employ LPHAs on a part-time basis during this time period. On multiple occasions, however, there were weeks and possibly even months during this time period when Laynie Foundation had no LPHA on staff. Without an LPHA on staff, Laynie Foundation was unable to comply with the clinical supervision requirements that a licensed mental health professional certify that the mental health services Laynie Foundation provided were medically necessary and met professional care standards. Furthermore, the LPHAs Laynie employed on a part-time basis did not provide mental health services to children enrolled in the SASS program; instead, they only would review the patient records prepared by Laynie Foundation QMHPs.

2. Services Provided by Laynie Foundation QMHPs

49. The QMHPs at Laynie Foundation were responsible for providing mental health services to children enrolled in the SASS program who were Laynie Foundation patients. The mental health services QMHPs provided during the 90-day SASS eligibility period included, among other things, a mental health assessment of the child, preparation of an individual treatment plan, therapy/counseling, and case management. The QMHPs provided these services at Laynie

Foundation's office in Matteson, Illinois, at off-site locations (such as the child's home or school), or over the telephone.

50. When a Laynie Foundation QMHP first met with a child who was potentially experiencing a mental health crisis, the QMHP called CARES for a telephonic acuity assessment to see if CARES would approve the child for inclusion in the SASS program. If CARES approved, Laynie Foundation would provide mental health services to the child for the 90-day SASS eligibility period.

51. In addition to the telephone call with CARES seeking approval for a child's inclusion in the SASS program, the Laynie Foundation QMHP was responsible during the first meeting with the child for providing crisis intervention services to deescalate the situation that might have been causing the child's mental health crisis and removing the child from any immediate harm. 59 Ill. Adm. Code 132.150 (2008).

52. The QMHP also performed a mental health assessment of the child during the initial meeting to gather information about the child's mental and physical status and presenting problems, and to identify the child's mental health service needs and recommendations for service delivery. 59 Ill. Adm. Code 132.148 (2012). The QMHP then was required to prepare a written mental health assessment report within 30 days of the meeting that included the following information about the child: identifying information (such as name, date of birth, and primary care physician); the reasons the child was seeking or being referred for current mental health treatment (including symptoms of mental illness); family history; mental status evaluation; preferences relating to services and desired treatment outcomes; personal history of mental health, abuse/trauma, and alcohol or other substance use; legal history and status; and a summary analysis and conclusions regarding the medical necessity of services. *Id.*

53. The QMHP also was required to develop a written individual treatment plan for the child within 45 days after completing the mental health assessment that included, among other things, the specific mental health services that would be provided to the child; the amount, frequency, and duration of the services; the staff responsible for delivering the services; and the goals/anticipated outcomes of the services. *Id.*

54. Following the mental health assessment and consistent with the individual treatment plan, the Laynie Foundation QMHP next would provide the child, the child's family, or both, with therapy/counseling sessions during the 90-day SASS eligibility period aimed at promoting the emotional, cognitive, behavioral, or psychological changes identified in the individual treatment plan. 59 Ill. Adm. Code 132.150 (2012). The therapy/counseling could be provided face-to-face, by telephone, or by videoconference. *Id.*

55. The Laynie Foundation QMHP also provided certain case management services—client-centered consultation and mental health case management—during the 90-day SASS eligibility period.

56. Client-centered consultation services are individual, client-specific professional communications among Laynie Foundation staff, or between Laynie Foundation staff and other agencies who are involved with service provision to the child. 59 Ill. Adm. Code 132.165 (2012). The services are to be provided in accordance with the child's individual treatment plan, and the communication must include offering or obtaining a professional opinion regarding the child's current functioning level or improving the child's functioning level, discussing the child's progress in treatment, adjusting the child's current treatment, or addressing the child's need for additional or alternative mental health services. *Id.*

57. Mental health case management services on the other hand include the assessment, planning, coordination, and advocacy services for a child who needs multiple services and requires assistance in gaining access to and in using mental health, social, vocational, educational, housing, public income entitlements, and other community services. *Id.* These services may also include identifying and investigating available resources, explaining options to the child, and linking the child with the necessary resources. *Id.*

Defendants' Fraudulent Scheme

A. Laynie Foundation Trained QMHPs to Inflate Services on Forms Tracking Mental Health Services Provided to Patients.

58. The QMHPs used forms provided by the Laynie Foundation to keep track of the mental health services they provided. Matheson and Ewing used the information from these forms to generate the claims for payment Laynie Foundation submitted to HFS.

59. Matheson trained each Laynie Foundation QMHP on how to complete the forms tracking the mental health services the QMHP provided to a child (or child's family) enrolled in the SASS program, including the therapy visits and crisis services the QMHP provided as well as the internal consultations and other case management services the QMHP had relating to the child.

60. Mental health services provided under the SASS program are reimbursed by HFS based on the amount of time spent providing the service. 59 Ill. Adm. Code 132.100 (2012) ("Documentation to support services provided for which reimbursement is claimed . . . shall support the amount of time claimed").

61. The QMHP thus would assign a unit value on the Laynie Foundation forms for each mental health service the QMHP provided. The unit value the QMHP assigned on the forms translated into the amount of time that Laynie Foundation billed to HFS for each mental health service the QMHP provided.

62. For most community mental health services provided by community mental health providers like Laynie Foundation, one unit equates to 15 minutes of time that the QMHP spent providing the mental health service. Ill. Handbook on Community Mental Health Services: Service Definition and Reimbursement Guide § III. HFS reimbursed Laynie Foundation between about \$15 and \$35 per unit depending on the mental health service Laynie Foundation billed to HFS. *Id.*

63. Because the reimbursement rates for mental health services provided under the SASS program are fixed, Matheson and Ewing decided to increase Laynie Foundation's payments from HFS by claiming that QMHPs provided more mental health services to each SASS patient than were actually rendered.

64. Matheson and Ewing thus regularly instructed Laynie Foundation QMHPs to inflate the unit values on the forms tracking the mental health services each QMHP provided by: (a) recording longer services than were actually rendered; and/or (b) including units for non-reimbursable activities.

65. In particular, Matheson and Ewing told Laynie Foundation QMHPs to assign a prescribed number of units on the forms for certain mental health services the QMHP provided, regardless of the actual time the QMHP spent providing the services. For example, they instructed QMHPs to assign five-to-six units (1.5-1.75 hours) on the forms for what were really one-unit (15-minute) therapy/counseling calls with patients and 16 units (four hours) on the forms for what were really seven-to-eight unit (1.75-2 hours) mental health assessments of patients.

66. Matheson and Ewing similarly instructed the QHMPs to include units on the forms for non-reimbursable activities such as internal case reviews and audits, staff training, clinical supervision, and recordkeeping.

67. Matheson and Ewing memorialized in writing some of their billing instructions to the QMHPs in Laynie Foundation's Intensive Outpatient Program manual, which instructs QHMPs that certain services provided by Laynie Foundation (some of which are non-reimbursable activities) have the following standardized units of care:

- Mental Health Assessment – 16 units
- Individual Treatment Plan – 8 units
- Utilization Review – 12 units
- Diagnostic Review – 6 units
- Quality Assurance Audit and Review – 8 units
- Clinical Staffing – 6 units
- Clinical Supervision – 4 units.

68. Matheson and Ewing required Laynie Foundation QMHPs to assign these standardized unit values on the forms tracking the mental health services the QMHPs provided, even though the services they provided almost always did not take as long as the standardized unit values.

69. In instructing the QMHPs to inflate the unit values on the forms tracking the mental health services they provided, Matheson and Ewing exploited the fact that most of the Laynie Foundation QMHPs were new to the profession, and for many, working at Laynie Foundation was their first job in the field. Moreover, the QMHPs' pay from Laynie Foundation was largely dependent on the unit values they assigned on these forms. As a result, Matheson and Ewing would tell the QMHPs that they could make as much money as they wanted working at Laynie Foundation if they completed the forms as Matheson and Ewing instructed.

70. When multiple QMHPs questioned Matheson about these billing practices, Matheson repeatedly told them to trust her experience and expertise in providing and billing for mental health services and also warned the QMHPs that Laynie Foundation would lose its eligibility and funding from Medicaid if the QMHPs did not bill as they were instructed.

Furthermore, Matheson regularly represented to the QMHPs that she was an LPHA (even though she was not) and that the QMHPs thus should not question the billing practices she taught them.

71. When Laynie Foundation QMHPs did not assign inflated unit values on the forms tracking the mental health services they provided, Matheson and Ewing would pressure the QMHPs to inflate the unit values on the forms and would tell the QMHPs “not to mess with [Matheson’s and Ewing’s] money.” Multiple QMHPs have admitted to assigning inflated unit values on the forms after being pressured by Matheson and Ewing.

72. In the event that a QMHP refused to assign inflated unit values on the forms as Matheson and Ewing instructed, Matheson reduced the QMHP’s workload by re-assigning the QMHP’s patients to other QMHPs who would inflate the unit values and by not assigning any new patients to the QMHP, which eventually caused the QMHP to quit working at Laynie Foundation.

73. Matheson and Ewing knew that Laynie Foundation was not allowed to bill HFS for a longer duration of services than were actually rendered or for non-reimbursable activities yet still submitted false and/or fraudulent claims to HFS for longer durations of services than were actually rendered and for non-reimbursable activities in order to increase the payments Laynie Foundation received from the agency. As a result, the time of each mental health service that Laynie Foundation represented to HFS in its claims for payment had little, if any, bearing to the actual time spent on the service.

74. The increased payments from HFS allowed Matheson and Ewing to each receive hundreds of thousands of dollars in salary from Laynie Foundation between 2011 and 2016.

75. Laynie Foundation’s compliance with the rules against billing for a longer duration of services than were actually rendered or for non-reimbursable activities was material to HFS’s payment of claims submitted by Laynie Foundation, and thus Laynie Foundation received

payments from HFS to which it was not entitled. Furthermore, defendants knew that submitting claims for longer durations of services than were actually rendered and for non-reimbursable activities would cause Laynie Foundation to receive payments from HFS to which it was not entitled.

76. Unaware of the falsity of the records and claims caused to be made by defendants, HFS paid Laynie Foundation for claims that would not have been paid but for defendants' wrongful acts and/or conduct.

77. The State of Illinois thereafter submitted claims to the United States for the federal share of the payments made to Laynie Foundation for Medicaid-funded services delivered under the SASS program. Unaware of the falsity of the records and claims caused to be made by defendants, the United States similarly made payments to the State of Illinois that would not have been made but for defendants' wrongful acts and/or conduct.

B. Laynie Foundation's Claims Data Reveals Disproportionate Amount of Billings.

78. Defendants' fraudulent scheme of having Laynie Foundation bill HFS for longer durations of services than were actually rendered and for non-reimbursable activities resulted in the submission of about \$8.2 million in claims to HFS from January 2012 through February 2016 for SASS services. HFS paid Laynie Foundation about \$6.3 million for these claims.

79. Laynie Foundation's claims to HFS during this time requested payment for five "current procedural terminology" (CPT) codes covered under the SASS program: (a) H2011 (crisis intervention service); (b) H0031 (mental health assessment by non-physician); (c) H0032 (treatment plan development, review, and modification by non-physician); (d) H0004 (behavioral health counseling and therapy); and (e) T1016 (case management).

80. HFS's payments to Laynie Foundation from January 2012 through February 2016 far exceeded the payments HFS made to nearly all other Illinois SASS providers.

81. For instance, Laynie Foundation was the second-highest-paid SASS provider in 2014, receiving over \$2.5 million in payments from HFS during this time. However, while Laynie Foundation treated 225 SASS patients in 2014, the highest-paid SASS provider in Illinois treated more than 16 times the number of SASS patients (3,683 patients) in 2014 and received only marginally more (\$3.2 million) in payments from HFS for the SASS services it provided these patients.

82. Furthermore, while Laynie Foundation submitted about 81 claims to HFS for each SASS patient in 2014 and was paid about \$11,000 for services it billed for each of these patients, the other top-20 SASS providers in Illinois submitted about 11 claims to HFS for each of their SASS patients in 2014 and were paid about \$1,000 for services they billed for each of these patients.

C. Laynie Foundation Suspended Due to Deficiencies Discovered in June 2015 Post-Payment Review.

83. HFS, the Illinois Department of Human Services, and the Illinois Department of Children and Family Services conducted a post-payment review of Laynie Foundation in June 2015 to assess its compliance with the requirements identified in Part 132. The agencies reviewed the records of ten SASS patients treated by Laynie Foundation.

84. The review looked at a total of 1,865 units of billing by Laynie Foundation. Out of those units, the agencies concluded that 1,422 units (76%) were unsubstantiated billings under Part 132. The 1,422 units equated to \$34,071 that HFS should not have paid to Laynie Foundation.

85. While there were multiple reasons that the 1,422 units were found to be unsubstantiated billings, the three primary reasons the agencies deemed these units deficient were:

(a) Laynie Foundation billed HFS for mental health services that were not recommended on the patient's individual treatment plan; (b) the service note in the patient record indicated that Laynie Foundation billed HFS for a non-reimbursable activity; and (c) there was no corresponding service note in the patient record to support the mental health service Laynie Foundation billed to HFS.

86. Because less than 50% of the reviewed units were compliant with Part 132, the Illinois Department of Children and Family Services suspended Laynie Foundation in June 2015 from billing for Part 132 services.

D. The Governments' Review of Laynie Foundation's Claims Confirmed Defendants' Fraudulent Practices.

87. The United States and the State of Illinois subsequently reviewed the patient and billing records for a statistically random sample of paid claims that Laynie Foundation submitted to HFS between January 2012 and June 2015.

88. The review involved 386 claims totaling 2,579 units of service from 208 patients who had received mental health services from Laynie Foundation under the SASS program. The 2,579 units of service can be categorized as follows: 972 units of behavioral health counseling and therapy (H0004); 1,453 units of case management (T1016); 48 units of mental health assessment (H0031); 40 units of treatment plan development (H0032); and 66 units of crisis intervention (H2011).

89. The United States and the State of Illinois determined based on their review of the patient and billing records that about 75% of the 386 sampled claims Laynie Foundation submitted to HFS were false and/or fraudulent.

90. Many of the sampled claims included standardized lengths of time for certain services that mirrored the billing instructions Matheson and Ewing provided QMHPs and that were in Laynie Foundation's Intensive Outpatient Program manual. For example, many of the sampled

claims listed 16 units for mental health assessments and 8 units for individual treatment plans despite the fact that the patient records did not support the standardized units Laynie Foundation billed for these services, as is required under Part 132. 59 Ill. Adm. Code 132.100 (2012) (“Documentation to support services provided for which reimbursement is claimed . . . shall support the amount of time claimed”).

91. Consistent with the billing instructions Matheson and Ewing provided QMHPs and as stated in Laynie Foundation’s Intensive Outpatient Program manual, many of the sampled claims billed as case management/client-centered consultation (T1016) non-reimbursable activities such as clinical supervision, internal case reviews and audits, and staff training, even though the regulations and guidelines governing reimbursement under the SASS program preclude billing for such activities. 59 Ill. Adm. Code 132.165(b) (2012) (“Client-centered consultation does not include advice given in the course of clinical staff supervision activities, in-service training, treatment planning or utilization review and may not be billed as part of the assessment process.”); Ill. Handbook on Community Mental Health Services: Service Definition and Reimbursement Guide § II (“The following activities are not reimbursable . . . [p]ersonnel/management activities (e.g., hiring, staff evaluations, normal staff meetings, utilization review activities, and staff supervision); [s]taff training, orientation and development; [and] [c]linical supervision”).

92. Some of the sampled claims similarly included units for time spent completing patient notes or other records, which also is not reimbursable. Ill. Handbook on Community Mental Health Services: Service Definition and Reimbursement Guide § II (The following activities are not reimbursable “either because they are not directly therapeutic, and/or because the cost associated with the activity was already taken into account in the rates paid for billable

services . . . [a]ctivities required to complete a billable service after the billable portion of the episode is concluded (e.g., completing case notes, returning file material, clinical documentation, billing documentation, etc.)”).

93. Finally, many of the sampled claims violated Part 132’s clinical supervision requirements by failing to have a licensed mental health professional certify that the mental health services Laynie Foundation provided were medically necessary and met professional care standards. Clinical supervision of mental health services provided by non-licensed individuals such as the Laynie Foundation QMHPs is critical to ensure that the care that is provided is medically necessary and meets professional care standards, and to confirm client safety and well-being.

94. Laynie Foundation thus was required to have an LPHA confirm the medical necessity of mental health services it provided and approve the clinical direction proposed by a QMHP by reviewing and signing each SASS patient’s mental health assessment and individual treatment plan. 59 Ill. Adm. Code 132.145(b) (2012) (“An LPHA shall provide the clinical direction and recommend medically necessary services as documented by his or her dated original signature with credentials” on each patient’s mental health assessment report and individual treatment plan). An LPHA must review and sign these documents prior to the provision of mental health services such as therapy/counseling and case management. 59 Ill. Adm. Code 132.148(c)(11)(A) (2012). Absent an LPHA’s signature on these documents, any mental health services such as therapy/counseling and case management that Laynie Foundation provided to a child (or child’s family) enrolled in the SASS program would not be medically necessary and thus would not be authorized and reimbursable under Part 132. *Id.*

95. Defendants knew that the mental health assessment and individual treatment plan had to be reviewed and signed by an LPHA because Laynie Foundation's own written policies and procedures, which Matheson and Ewing prepared, required that these documents be reviewed and signed by an LPHA. Furthermore, Laynie Foundation employed LPHAs on a part-time basis from time to time between 2011 and 2016 to review and approve patient records prepared by QMHPs, including mental health assessments and individual treatment plans.

96. Nevertheless, in many of the sampled claims, defendants knowingly violated the clinical supervision requirements by not having an LPHA sign the mental health assessment and/or the individual treatment plan. Some of the sampled claims did not have any signature on the mental health assessment and/or individual treatment plan from a mental health professional, whether a QMHP or an LPHA.

97. In other sampled claims, defendants knowingly violated the clinical supervision requirements by providing mental health services such as therapy/counseling and case management to a SASS patient prior to an LPHA reviewing and signing the mental health assessment and/or individual treatment plan. Because these services were provided prior to LPHA review and signature, the services were not medically necessary and were not authorized and reimbursable under Part 132.

98. Laynie Foundation's compliance with the clinical supervision requirements was material to HFS's payment of these claims, and thus Laynie Foundation received payments to which it was not entitled. Furthermore, defendants knew that submitting claims for services that did not comply with the clinical supervision requirements would cause Laynie Foundation to receive payments from HFS to which it was not entitled. Had HFS known that Laynie Foundation was not complying with the clinical supervision requirements, it would not have paid these claims.

99. By disregarding the clinical supervision requirements, defendants avoided having LPHAs evaluate the medical necessity of the mental health services that were proposed for a patient and also avoided having to pay LPHAs for the time required to review and sign mental health assessments and individual treatment plans.

Count I
Violation of the False Claims Act, 31 U.S.C. § 3729(a)(1)(A)
Causing False and/or Fraudulent Claims to Be Presented
(Asserted by the United States Against All Defendants)

100. Paragraphs 1 through 99 of this joint complaint in intervention are incorporated by reference as if fully set forth in this paragraph.

101. As set forth above, defendants knowingly presented, or caused to be presented, false and/or fraudulent claims to the United States that were paid with federal funds (via Medicaid).

102. Defendants' false and/or fraudulent claims caused the United States to sustain damages in an amount to be determined at trial and entitle the United States to treble damages under the False Claims Act, plus civil penalties of not less than \$5,500 and up to \$11,000 for each violation.

Count II
Violation of the False Claims Act, 31 U.S.C. § 3729(a)(1)(B)
False Records and Statements
(Asserted by the United States Against All Defendants)

103. Paragraphs 1 through 102 of this joint complaint in intervention are incorporated by reference as if fully set forth in this paragraph.

104. As set forth above, defendants knowingly made, used, or caused to be made or used, false records or statements that were material to false and/or fraudulent claims paid by the United States (via Medicaid).

105. Defendants' false and/or fraudulent claims caused the United States to sustain damages in an amount to be determined at trial and entitle the United States to treble damages under the False Claims Act, plus civil penalties of not less than \$5,500 and up to \$11,000 for each violation.

Count III
Violation of the Illinois False Claims Act, 740 ILCS 175/3(a)(1)(A)
Causing False and/or Fraudulent Claims to Be Presented
(Asserted by the State of Illinois Against All Defendants)

106. Paragraphs 1 through 105 of this joint complaint in intervention are incorporated by reference as if fully set forth in this paragraph.

107. As set forth above, defendants knowingly presented, or caused to be presented, false and/or fraudulent claims to the State of Illinois that were paid with state funds.

108. Defendants' false and/or fraudulent claims caused the State of Illinois to sustain damages in an amount to be determined at trial and entitle the State of Illinois to treble damages under the Illinois False Claims Act, plus civil penalties of not less than \$5,500 and up to \$11,000 for each violation.

Count IV
Violation of the Illinois False Claims Act, 740 ILCS 175/3(a)(1)(B)
False Records and Statements
(Asserted by the State of Illinois Against All Defendants)

109. Paragraphs 1 through 108 of this joint complaint in intervention are incorporated by reference as if fully set forth in this paragraph.

110. As set forth above, defendants knowingly made, used, or caused to be made or used, false records or statements that were material to false and/or fraudulent claims paid by the State of Illinois.

111. Defendants' false and/or fraudulent claims caused the State of Illinois to sustain damages in an amount to be determined at trial and entitle the State of Illinois to treble damages under the Illinois False Claims Act, plus civil penalties of not less than \$5,500 and up to \$11,000 for each violation.

Count V
Common Law Fraud
(Asserted by the United States and the State of Illinois Against All Defendants)

112. Paragraphs 1 through 111 of this joint complaint in intervention are incorporated by reference as if fully set forth in this paragraph.

113. As set forth above, defendants caused material and false representations to be made with knowledge of their falsity or reckless disregard for their truth, with the intention that the United States and State of Illinois would act upon these material and false representations to their detriment. The United States and the State of Illinois acted in justifiable reliance upon defendants' material and false representations and made payments.

114. As a result of these payments, the United States and the State of Illinois have been damaged in an amount to be determined at trial.

Count VI
Unjust Enrichment
(Asserted by the United States and the State of Illinois Against All Defendants)

115. Paragraphs 1 through 114 of this joint complaint in intervention are incorporated by reference as if fully set forth in this paragraph.

116. As set forth above, by obtaining federal and state funds to which they were not entitled, defendants were unjustly enriched at the expense of the United States and the State of Illinois and are liable to account and pay to the United States and State of Illinois such amounts, or the proceeds therefrom, that are to be determined at trial.

Count VII
Payment By Mistake
(Asserted by the United States and the State of Illinois Against Laynie Foundation)

117. Paragraphs 1 through 116 of this joint complaint in intervention are incorporated by reference as if fully set forth in this paragraph.

118. As set forth above, the United States and the State of Illinois, acting in reasonable reliance that the claims for payment Laynie Foundation submitted to HFS were accurate, complete, and truthful, paid Laynie Foundation certain sums of money to which it was not entitled.

119. Laynie Foundation thus is liable to account and pay to the United States and the Laynie Foundation such amounts that are to be determined at trial.

WHEREFORE, the United States and the State of Illinois request that judgment be entered as follows:

a. On Counts I and II (False Claims Act), judgment against each of the defendants, jointly and severally, for the amount of the United States' damages, trebled as required by law, plus civil penalties for the maximum amount allowed by law;

b. On Counts III and IV (Illinois False Claims Act), judgment against each of the defendants, jointly and severally, for the amount of the State of Illinois's damages, trebled as required by law, plus civil penalties for the maximum amount allowed by law;

c. On Count V (common law fraud), judgment against each of the defendants, jointly and severally, for compensatory and punitive damages in an amount to be determined at trial, plus costs and interest;

d. On Count VI (unjust enrichment), judgment against each of the defendants, jointly and severally, for compensatory damages in an amount to be determined at trial, plus costs and interest;

e. On Count VII (payment by mistake), judgment against defendant Laynie Foundation for compensatory damages in an amount to be determined at trial, plus costs and interest;

f. For an award of costs pursuant to 31 U.S.C. § 3729(a) and 740 ILCS 175/3(a); and

g. For such further relief as is proper.

Respectfully submitted,

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